

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED
January 17, 2012

In the Matter of BALDWIN, Minors.

No. 305212; 305213
Kalamazoo Circuit Court
Family Division
LC No. 2009-000096-NA

Before: HOEKSTRA, P.J., and MARKEY and BORRELLO JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal by right the trial court's order terminating their parental rights under MCL 712A.19b(3)(g) and (j). Respondent father argues the evidence presented was insufficient to terminate his parental rights, and that petitioner failed to provide reasonable reunification services. Both respondents argue the trial court erred in finding termination of their parental rights at the initial disposition in the children's best interests. We affirm.

The trial court did not err in finding that sufficient evidence supported the statutory grounds for termination of respondent father's parental rights. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been established by clear and convincing evidence. MCR 3.977(E)(3); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). This proceeding commenced with the children's removal pursuant to Petition A in March 2009 that alleged that respondent father used methamphetamine, that respondent mother had mental health issues and used drugs, and that both respondents, they lived in an unsanitary home and engaged in domestic violence. After nine months' participation in intensive Family Dependency Drug Treatment Court and other reunification services, the family was reunited; the trial court dismissed the children's temporary court wardship after eleven months. Respondents relapsed shortly thereafter. Then, after a methamphetamine lab exploded in October 2010 in the bedroom they occupied, the children were removed again, and petitioner requested termination of respondents' parental rights at the initial disposition in Petition B.

Child protective proceedings are one continuous proceeding, *In re LaFlure*, 48 Mich App 377, 391; 210 NW2d 482 (1973), and the trial court properly considered the evidence presented from March 2009 to June 2011 under both Petitions A and B in finding sufficient evidence to terminate respondent father's parental rights. Respondent father's relapse into methamphetamine use immediately after reunification with the children, his chronic unstable

housing, and his operation of a methamphetamine lab in the home with the children present clearly constituted failure to provide the children with proper care. Still, he argues on appeal that the evidence was insufficient to show there was no reasonable expectation he could rehabilitate himself within a reasonable time and provide the children with safe, appropriate care. However, the evidence showed that in addition to his nearly immediate relapse after participating in intensive services following the proceeding under Petition A, respondent father never achieved stability after relapsing and was incarcerated on probation violations for approximately five of the eight months of the proceeding regarding Petition B. During the periods of time he was not incarcerated, he failed to initiate counseling to address his most serious issue, substance abuse, or obtain stable housing and comply with the terms of his probation. In light of the fact that he remained un-rehabilitated, we agree that the evidence clearly showed the children would be at risk of harm if returned to his care. The evidence was sufficient to support the trial court's termination of respondent father's parental rights pursuant to §§ 19b(3)(g) and (j).

Respondent father argues petitioner failed to make reasonable reunification efforts in that it failed to diagnose him with a mental illness and provided him an ineffective caseworker who allowed him to "fall through the cracks." Petitioner was not required to offer reunification services because Petition B requested termination of respondent father's parental rights at the initial disposition under MCR 3.977(E),¹ and reunification services are not required when

¹ MCR 3.977(E) provides:

Termination of Parental Rights at the Initial Disposition. The court shall order termination of the parental rights of a respondent at the initial dispositional hearing held pursuant to MCR 3.973, and shall order that additional efforts for reunification of the child with the respondent shall not be made, if

- (1) the original, or amended, petition contains a request for termination;
- (2) at the trial or plea proceedings, the trier of fact finds by a preponderance of the evidence that one or more of the grounds for assumption of jurisdiction over the child under MCL 712A.2(b) have been established;
- (3) at the initial disposition hearing, the court finds on the basis of clear and convincing legally admissible evidence that had been introduced at the trial or plea proceedings, or that is introduced at the dispositional hearing, that one or more facts alleged in the petition:
 - (a) are true, and
 - (b) establish grounds for termination of parental rights under MCL 712A.19b(3)(a), (b), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), or (n);
- (4) termination of parental rights is in the child's best interests.

termination is petitioner's goal. *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009); *In re Terry*, 240 Mich App 14, 25 n 4; 610 NW2d 563 (2000). Nevertheless, petitioner prepared a parent agency treatment plan for respondent, and the evidence showed respondent father "fell through the cracks" and did not receive services, not because he lacked an effective caseworker, but rather because he chose to violate probation which resulted in three periods of incarceration during the eight-month Petition B proceeding. Additionally, he failed to pursue services while not incarcerated. Respondent father does not identify any evidence in the record showing he had a mental illness that led him to use methamphetamine or make other poor decisions. Given no evidence that mental illness existed, petitioner's failure to address it cannot serve as a basis for finding petitioner did not make reasonable reunification efforts.

Finally, the trial court did not err in finding termination of both respondents' parental rights in the children's best interests. MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The evidence showed the children were strongly bonded to respondents and would suffer emotional distress if the family bond was severed, but the evidence also showed respondents' chaotic home environment caused the children to suffer post traumatic stress disorder and significant trauma that necessitated long-term counseling and very consistent parenting. The trial court based its best interests decision on the whole of the evidence presented in the Petition A and Petition B proceedings, finding neither respondent was able to provide the children the safe, stable, consistent home they needed within a reasonable time. Its decision to terminate respondents' parental rights was not summary or premature. Indeed, it was based on more than two years' evidence.

We affirm.

/s/ Joel P. Hoekstra
/s/ Jane E. Markey
/s/ Stephen L. Borrello